

## **The Oregonian**

# **Portland announces first coronavirus actions, including help for the homeless and limits on large city gatherings**

*By Everton Bailey Jr.  
March 11, 2020*

With coronavirus spreading in Oregon, Portland officials announced Wednesday that they will temporarily relocate some adults in homeless shelters who are particularly vulnerable to the virus to motels.

The announcement was prompted by an outburst during a City Council meeting by spectators demanding to know the city's response to coronavirus.

Mayor Ted Wheeler told the audience that the state is leading the effort to respond to the virus, and county and city officials are coordinating with them so there is a consistent response. He said city employees have been encouraged to stay home if they feel ill, city bureaus have been told to limit large gatherings to lower the chances of transmitting COVID-19, that winter emergency shelters would remain open regardless of the weather and staff have been advised to "keep people at appropriate distance."

He said people staying in shelter who are 60 or older with pre-existing health conditions will be moved temporarily into motels and other locations for their safety and the safety of other people. He didn't say if that process had begun.

"This situation will change on a daily, if not hourly, basis going forward," Wheeler said.

### **CORONAVIRUS IN OREGON: THE LATEST NEWS**

Commissioner Chloe Eudaly said portable toilets and hand washing stations will be placed in 14 locations across the city and that the Portland Bureau of Transportation issued the permits Wednesday morning. It's unclear where those locations will be.

At least two people were expelled from the meeting for yelling for an explanation during someone else's public testimony. The outburst came while resident Charles BridgeCrane Johnson said that he wanted to see more money devoted to virus prevention efforts for Portlanders who live in poverty.

Commissioner Jo Ann Hardesty told Johnson the city planned to increase its response to the contagious disease to ensure the safety of its vulnerable populations. When she asked him to help "dispel the myth that the city council is somehow sitting on their hands and just waiting to see what's going to happen," two spectators yelled back that it "wasn't a myth."

"Where's the plan, Ted?" yelled activist Mimi German as she approached the table in front of the councilors' dais. Wheeler said she was in violation of city council rules and would be escorted out if she didn't stop.

The council chambers were cleared when she and another local activist continued to demand to hear the city's plan to deal with coronavirus.

Eudaly said she recently spoke with Oregon Sen. Ron Wyden about the Senate passing a \$8.3 billion coronavirus emergency funding bill, which Sen. Jeff Merkley helped write. Both senators also helped secure funding.

Eudaly said she also supports a temporary suspension of rental evictions during the health crisis and was looking into how possible it would be to freeze rent increases during the period as well.

“While I’m deeply concerned about public health, I’m also incredibly concerned about the economic impact to our local economy and especially to residents who can’t sustain the loss of a single paycheck,” she said.

Hardesty said the council hasn’t had any conversations related to a rent freeze or eviction moratorium and said she hadn’t made any decisions on regulating anything in connection with the coronavirus.

“I don’t want people getting out of control about what we will do and won’t do,” Hardesty said. “I think we have to look at the whole picture on who’s being impacted most severely and come up with the best policies we can.”

The announcements are among the first city-specific public responses made in connection with the virus, which has infected 19 people in Oregon in nine counties thus far, including one patient from Multnomah County who is receiving treatment at the Veterans Affairs Medical Center in Portland.

Portland officials announced Wednesday that a public gathering scheduled next week to celebrate the reopening of the Portland Building is being postponed amid health concerns over the coronavirus.

“Experts tell us that large gatherings create opportunities to transmit the virus, which compromises the safety of senior citizens, people with underlying health conditions and others who are especially vulnerable,” said Portland Office of Management and Finance spokesperson Heather Hafer in a statement. A new date for the event hasn’t been announced.

The reopening of the Portland Building, which houses the city’s administrative staff adjacent to City Hall, was meant to publicly commemorate the end of two years of renovations. The building reopened in January.

Some West Coast cities have instituted bans on gatherings due to coronavirus. Crowds of more than 250 aren’t allowed in the Seattle area, and San Francisco announced Wednesday that all gatherings of more than 1,000 people are prohibited.

No such ban has been instituted in Portland as of mid-day Wednesday and the regularly scheduled city council meeting went on as planned.

The city has been coordinating daily with the Multnomah County Public Health Department on how to respond to the virus, said Dan Douthit, a Portland Bureau of Emergency Management spokesperson. He said the city has been deferring to the county on safety guidance and any decision the city makes regarding crowd gatherings would be done “in concert with Multnomah County.”

City officials said they’ve been focused on communications internally and sending out coronavirus-related information to the public via social media.

Portland Parks and Recreation said no facilities have been closed because of the virus. A chorus concert scheduled Wednesday night at the Multnomah Arts Center has been cancelled. Bureau officials said hand sanitizer stations have been put in the lobbies of public facilities and staff have increased the sanitizing of pools and community centers.

# **Portland residents not surprised by the racial discrimination, wrongful West Linn police arrest of Michael Fesser**

*By Maxine Bernstein*

*March 12, 2020*

A week after hearing West Linn residents react with shock to his wrongful arrest, Portland resident Michael Fesser faced a different crowd Wednesday night, holding a community forum in his North Portland neighborhood.

The largely African American crowd wasn't at all surprised by the racial discrimination Fesser faced at his old A&B Towing Co. job and neither were they stunned by how a former Portland police veteran and West Linn police violated his rights.

Fesser, 48, won a \$600,000 settlement from a federal suit against the West Linn police last month after earlier settling a discrimination and retaliation suit for \$415,000 against his former boss, Eric Benson, owner of A&B Towing Co. in Portland.

"I know there's a lot of pain and hurt here in this community," Fesser said, addressing a crowd of about 45 people in the auditorium of De La Salle North Catholic High School. "I'm here to hear from you guys. What does the community want? ... We can be stronger together."

His litigation revealed that West Linn police arrested Fesser in Southeast Portland on Feb. 25, 2017, on trumped-up theft charges as a favor to Benson, a friend of then-West Linn Police Chief Terry Timeus. Text messages exchanged between Benson and the lead West Linn detective hours before Fesser's arrest were filled with racist, derogatory and crude banter. The text messages were disclosed during the course of Fesser's suit against Benson.

Emails obtained by The Oregonian/OregonLive revealed that current West Linn Police Chief Terry Kruger also had a personal friendship with Fesser's old boss, Benson.

Attendee William Davis told the crowd that he's trying to move beyond a 2007 arrest and clear his name. Community members need lawyers to help people who don't have the resources to fight their cases, he said.

Resident Aryic Payton said he was disturbed after reading of Fesser's case that members of the West Linn Police Department weren't going to take further action to hold officers involved accountable until other agencies, such as the Clackamas County District Attorney's Office, initiated investigations after the settlement with West Linn became public.

Many called for West Linn's current police chief to resign or be fired.

"This man can't possibly be the person to move them" forward, said Paul Buchanan, Fesser's lawyer. He called for Kruger to step aside.

Resident Jessica Johnson said she empathized with Fesser's case, noting how then-West Linn police Lt. Mike Stradley had Portland police gang enforcement officers help West Linn police with Fesser's arrest. Stradley had retired from the Portland Police Bureau before joining the West Linn force and characterized Fesser as a threat in 2017 based on his encounters with Fesser more than two decades earlier, court records show.

"Just because we have a past doesn't mean that makes us who we are today," Johnson said.

Resident Jerry Lawrence thanked Fesser for “standing up” for his rights and urged people in the crowd to understand the rights they have and work to safeguard them. He also urged them to go out and vote.

“If you don’t know your rights, you have no rights,” he said.

Joe “Bean” Keller vowed to keep pressure on Kruger to resign.

Kruger shot and killed Keller’s son, Deontae J. Keller, 20, when he was a Portland police officer in 1996. Deontae Keller was running from a car and had a .45-caliber handgun with him, police said, but didn’t point it at police. Kruger shot him in the back as he fled. He bled out in the yard of a home several blocks away, his father said.

A prosecutor at the time said Deontae Keller’s involvement in a drive-by shooting an hour earlier made him dangerous. A Multnomah County grand jury found no criminal wrongdoing by Kruger.

Keller’s father has argued for years that his son’s shooting was unjustified.

It was one of Kruger’s two fatal shootings as a Portland officer and gave some West Linn City Council members pause when he was a finalist for police chief.

Kruger in 2005 shot Ronald R. Riebling Jr., who held an umbrella wrapped in a cloth when he came out of his ex-girlfriend’s duplex. Kruger thought the object was a rifle and fired one shot, killing Riebling.

Kruger was selected as West Linn’s chief by the former city manager Eileen Stein and started the job on June 4, 2018, the day Fesser’s lawyer had a notice of intent to sue hand-delivered to him at the police department.

On May 18, 2018, Stein wrote in a memo to the mayor and City Council that she selected Kruger from two finalists and indicated she realized he wasn’t the candidate preferred by the majority of the council, but said she was swayed because he was the choice of West Linn police command staff.

Sam Sachs, who leads a Portland group called Breaking Bread, Breaking Barriers to build relationships between residents and police, said he can’t understand how West Linn residents could be so appalled by the actions of their police yet the lead West Linn investigator, Sgt. Tony Reeves, and Stradley, now a training supervisor at the state’s basic police academy, still have their jobs. Both were placed on paid leave last month, pending a U.S. Department of Justice investigation and other state and local inquiries into Fesser’s arrest.

“We need action before we can move forward,” Sachs said.

Teri Cummings, the West Linn City Council president, and two members of the new group Concerned Citizens of West Linn attended the meeting.

Abby Farber, one of the organizers of the Concerned Citizens, invited Portland residents to attend a March Against Racism in West Linn Saturday afternoon. The march will start at 1865 Blankenship Road and end at the West Linn Police Department, where participants will urge that Kruger and any other officers tied to Fesser’s case be removed and an independent board be created for police oversight.

“Everybody is welcome to participate,” she said. “We want Terry Kruger off the force.”

At the very least, Kruger should be placed on leave, said Kathy Selvaggio, another organizer of the Concerned Citizens group.

Kruger didn't return an email seeking comment late Wednesday.

Cummings said she was struck by the different responses at Fesser's meeting last week with West Linn residents and Wednesday night's gathering with Portlanders.

"West Linn was in shock," she said. "This here was the opposite. People here were saying, 'This is the same old story.'"

## **The Portland Tribune**

### **Homeless COVID-19 responses discussed by City Council**

*By Jim Redden*

*March 12, 2020*

Mayor Ted Wheeler outlines actions after protesters disrupt Wednesday morning meeting

Homeless people in Multnomah County most at risk of the COVID-19 virus are being moved out of emergency shelters and into motels and other locations.

Emergency winter shelters are also staying open for other homeless people, who are being directed to stay a safe distance from one another and staff.

In addition, the Portland is preparing to deploy 14 portable hand-washing stations around the city, seven of which will also have portable toilets.

And city workers who feel ill are being told to stay home, even while large gathers of those reporting to work are being canceled.

These are among the local steps being taken in response to the novel coronavirus outbreak that were revealed during an unplanned discussion at the City Council on the morning of Wednesday, March 11. It happened after protesters disrupted the meeting about 45 minutes after it began. They demanded to know what the city was doing to protect the homeless.

Mayor Ted Wheeler temporarily adjourned the meeting while some of the protesters were escorted out of the Council Chambers. When the meeting resumed, Wheeler presented the first public overview of the city's response to the outbreak. He explained that because Oregon Gov. Kate Brown has declared a state of emergency, the Oregon Health Authority is in charge of the Incident Command Structure.

Second in line are counties, Wheeler said, because they have public health departments. Portland has embedded employees from the Bureau of Emergency Management at the command center in the county to share information and coordinate its response.

Despite the explanation, Wheeler noted, "This situation will change on a daily, if not hourly basis, going forward."

Commissioner Jo Ann Hardesty added to the sense of uncertainty, saying, "We don't know what we don't know yet."

Commissioner Chloe Eudaly said she supported a ban on evictions and rent increases during the outbreak, although no such measure has been introduced. Hardesty cautioned that the council has only begun such discussion, however, and that she was not yet prepared to support such bans.

Multnomah County is maintaining a website with information on COVID-19 and the responses to it, including the new emergency shelter policies Wheeler discussed, at [multco.us/novel-coronavirus-covid-19](http://multco.us/novel-coronavirus-covid-19).

## **Companies ask EPA to reduce scope of Portland Harbor Superfund Site cleanup**

*By Jim Redden  
March 11, 2020*

### **The industrial companies say a sampling survey they commissioned in 2018 shows the harbor is cleaner than earlier EPA data**

Four large industrial companies in the Portland Harbor have asked the U.S. Environmental Protection Agency to reduce the scope of its Superfund cleanup plan.

The companies sent a letter and petition to the EPA on March 9 saying the plan was based on outdated information about pollution levels in the harbor. The letter said a 2018 sampling survey of the harbor they commissioned shows it is much cleaner than the EPA's data, most of which was collected in 2004.

The Portland Harbor Superfund Site cleanup plan approved by the EPA in 2016 is estimated to cost up to \$3 billion and take as long as 20 years to complete. The four companies are Evraz Inc., Gunderson LLC, Schnitzer Steel Industries and Vigor Industrial LLC.

The letter and petition claim that pollution control requirements overseen by the EPA and the State of Oregon, together with in-water mitigation work and the natural flow of the river, have substantially reduced the contamination in the Portland Harbor Superfund Site over the past few decades.

"Given the new data, EPA has the opportunity to ensure that the remedy is based on actual Site conditions. If EPA fails to update the remedy based on the comprehensive new Site data, it will be acting in an arbitrary and capricious manner that would undermine prospects for a successful remedy and cause substantial financial waste and disruption to the community for decades to come," reads the letter from the companies, which call themselves the Portland Harbor Pre-Remedial Design Group (Pre-RD Group).

The EPA authorized the companies to commission the 2018 sampling survey. The submitted a Pre-Remedial Design Investigation Evaluation Report to the EPA in June 2019. Among other things, it concluded the harbor is already cleaner than the EPA says.

"The PDI data and analyses show that Site conditions have improved substantially since the last comprehensive sampling was performed in 2004. Substantial risk reduction has already occurred, and fish consumption risks are at or below EPA's interim targets for recreational fishers and subsistence fishers," the report said.

After receiving it, the EPA posted a statement in its website saying the data was "generally acceptable" but does not justify revisiting the cleanup plan, formally called the Record of Decision.

"EPA finds the data collected by the Pre-RD Group to be of suitable quality and generally acceptable. EPA intends to fully utilize this new, comprehensive data set as we work to move the entire harbor into design this year and start construction of the final cleanup. However, EPA does

not agree that the data or the Pre-RD Group's analysis support many of the conclusions presented in the PDI Evaluation Report," the statement said.

It is unclear whether the EPA must respond to the letter and petition. The EPA did not immediately respond to a request for comment from the Portland Tribune.

Ironically, the letter and petition was sent on the same day the EPA announced that more than a dozen other companies in the harbor have agreed to begin preparing remedial cleanup plans for their properties. According to the announcement, plans are now being prepared for over half of the acres in the Superfund Site, which consists of 10 miles of the Willamette River in Portland.

Much of the work is being supported by a \$24 million EPA trust fund created by the State of Oregon and City of Portland to help pay for the remedial cleanup plans.

## **The Portland Mercury**

### **Portland's Two Citizen-Led Police Oversight Committees Are Facing Critical Instability**

*By Alex Zielinski  
March 12, 2020*

Independent, citizen-led police oversight is one of the few tools Portlanders have to ensure cops are held accountable for misconduct. But 2020 has begun with the city's two leading police oversight committees facing critical instability—and how the city responds will determine the future of Portlanders' already shaky trust in the city's law enforcement.

"I'm feeling like we've been participating in accountability theater rather than actual accountability," said Andrea Chiller, a member of the city's Citizen Review Committee (CRC) at a March 4 meeting. "That's actually harmful for this community."

The CRC is an 11-person group of volunteers that makes policy recommendations to the Portland Police Bureau (PPB) and determines if a citizen's complaint against an officer is serious enough to warrant PPB discipline. It's the only committee that's allowed to make recommendations about police discipline that doesn't have a city employee as one of its members.

Yet the majority of the CRC's members feel their work—which is often touted by city officials as a uniquely strong police accountability tool—is increasingly pointless. That frustration came to a boiling point in early January with the abrupt resignations of Kristin Malone, the CRC's longtime chair, and Daniel Schwartz, another veteran CRC member.

In his resignation letter, Schwartz wrote that a continuing series of issues have "made it difficult for me to continue to believe that the mandate of police oversight given to the CRC is seen by the city as anything more than an empty gesture."

He pointed to the frustration felt when, during a CRC meeting, former PPB Chief Danielle Outlaw agreed with the CRC's decision that an officer who threatened to arrest a person for filming police during a protest should face serious discipline, as the officer was attempting to restrict that citizen's free speech. Only months later, after reading a story in the Oregonian, did Schwartz and his fellow committee members realize Outlaw had changed her mind—and had downgraded the officer's punishment to one day of unpaid leave.

Malone, who penned a shorter resignation letter that echoed Schwartz's concerns, had spent the past five years trying to improve CRC's ostensible ability to hold negligent officers accountable. Instead of being allowed to objectively weigh a citizen's complaint, CRC members have long been required to consider the decision from the perspective of the police. Malone's efforts to change that rule went ignored by Portland City Council and Portland City Auditor Mary Hull Caballero, the elected official who oversees the CRC. Hull Caballero stopped attending CRC meetings four years ago.

When interim CRC chair Candace Avalos read Schwartz and Malone's letters aloud at a March meeting, those who've sat on the CRC the longest nodded their heads in agreement.

"The city auditor has told us in many different ways that our work is not meaningful and not respected," said Julie Falk, who joined the CRC in 2015. "How are we expected to believe any differently?"

Chiller, a CRC member since 2016, said her recent work on the committee has felt "toothless." Learning that Outlaw had shrugged off the CRC's recent discipline recommendation only cemented that feeling.

"This goes to the very core of our work," Chiller said. "It's demoralizing."

The CRC's resignations came just a month before US District Judge Michael Simon said the city was still out of compliance with a six-year-old settlement agreement it made with the US Department of Justice over the PPB's outsized use of force against people with a mental illness. Simon said the only reason the city remained out of compliance was that the mandated citizen-led group tasked with overseeing PPB's promised reforms, the Portland Committee on Community Engaged Policing (PCCEP), wasn't impactful enough.

Like the CRC, PCCEP has struggled to retain members, with several individuals citing a lack of support and respect for the group, along with little power to improve trust between the community and the police, as their reason for resigning. Members have expressed frustration that their PPB policy recommendations aren't seriously considered by Portland City Council, making their volunteer work meaningless.

At the March CRC meeting, Avalos mentioned PCCEP's retention problems.

"A number of people resigned because they lost trust in the process," said Avalos. "It's not that different than what's happening here."

Avalos added that when she joined the CRC in 2017, a number of CRC members had recently resigned in protest. The same thing had happened a decade before, too. Maybe it's become an expected process: An eager volunteer joins a Portland police oversight group, expecting the group to have some kind of impact—only to resign after discovering a broken system.

It's a cycle that not only erodes trust, but further protects negligent police officers. As members of Portland's police-oversight communities warn residents, yet again, that their perspectives are being ignored, how much longer will Portlanders be content with accountability theater?



# Judge Bars City Attorneys From Placing Sweeping Blame on Quanice Hayes for his Death by Police

*By Alex Zielinski*

*March 11, 2020*

A federal judge is banning attorneys with the City of Portland from using an argument in court that blames Quanice Hayes' death by a Portland cop on actions Hayes took before he encountered the police in the early hours of February 9, 2017.

Hayes, 17, was fatally shot after officers responded to an attempted carjacking and armed robbery taking place Northeast Portland. They stopped Hayes as he was leaving a house he had allegedly burglarized near 82nd and Tillamook, and cornered him in an alcove, guns drawn. Hayes was on his knees, shuffling towards the officers with his hands raised when he reached towards his waistband. That's when Officer Andrew Hearst shot him three times with a AR-15 rifle. Only after Hayes died did officers discover a fake gun lying in a garden nearby.

Hayes' family sued the city in 2018, accusing Hearst of using excessive force against Hayes and blaming the City of Portland for failing to train its officers. In response, city attorneys presented a long list of reasons why Hayes and his mother, Venus Hayes, were solely responsible for Hayes' death. Those reasons include blaming Hayes for "failing to sleep properly" the night before, owning a replica gun, stealing items from a car and a house, and breaking a homeowner's alarm system. Attorneys blamed Venus for acting negligently by not properly supervising a minor she was the sole guardian to. City attorneys had proposed using these arguments in court when—and if—the civil lawsuit reaches a juried trial.

But US Magistrate Judge John Acosta isn't going to let most of those arguments stand.

If the [city's] allegations... made it reasonably foreseeable to Quanice Hayes that, among other things, stealing property and failing to get enough sleep risked the type of harm at issue—getting shot—then anyone who commits theft or burglary should reasonably expect not to be arrested, but to be shot," wrote Acosta in a Tuesday ruling. "That is not the law."

Acosta ruled that the majority of city's legal defense blaming Hayes for his death cannot be used in trial. He also struck the city's entire defense that accuses Venus of contributing to her son's death. (City attorneys dropped this defense themselves last Thursday). The only arguments Acosta is granting the city use in trial to defend Hearst are mostly based on actions that took place once Hayes actually interacted with officers on February 7.

Those permissible accusations against Hayes are "failing to discard" the replica gun before confronting police, "failing to explain" that the gun was a replica, "failing to obey" officer's commands to keep his hands away from his waistband, and "consuming or abusing" illegal substances earlier in the evening.

In his order, Acosta writes that this conduct may have "contributed to the city's negligence at the scene where Hearst shot Quanice Hayes, and the question of foreseeability is properly left to the jury."

This suggests that Acosta might avoid making a summary judgement—the term for when a judge believes the facts of a case are clear enough that the judge alone can rule on a verdict, instead of letting the case go before a jury. In short, Acosta's order increased the likelihood that the Hayes' case will go to trial.

It's still unclear when that trial would take place. The next pre-trial hearing in the case has not yet been scheduled.

## **The Daily Journal of Commerce**

### **Portland Building project celebration postponed**

*By Sam Tenney  
March 11, 2020*

A public celebration to mark the grand reopening of the Portland Building has been postponed by the city over coronavirus concerns. Citing the health risk of large public gatherings to senior citizens and other vulnerable populations, the city announced Wednesday that the event, originally planned for March 19, will be delayed.

“We are, of course, disappointed,” Heather Hafer, a public information officer with the city’s Office of Management and Finance, stated in a press release. “However, we need to put health and safety first as our community responds to the spread of COVID-19.”

The reconstruction project was undertaken to address a number of concerns with the 38-year-old building, including moisture intrusion, poor air and interior daylighting. The design/build/relocate team of Howard S. Wright and DLR Group began work on the project in late 2017, and city bureaus began a phased return to the renovated building beginning in December 2019.

A panel discussion planned in conjunction with the celebration has also been postponed. That was to have been moderated by Brian Libby and include a pair of architects who worked on the original design for Michael Graves Architecture & Design as well as two architects with DLR Group, which led the design of the restoration project.

## **OPB**

### **Companies Challenge Portland Harbor Superfund Cleanup Plan**

*By Cassandra Profita  
March 11, 2020*

As the U.S. Environmental Protection Agency was announcing eight major cleanup agreements for the Portland Harbor Superfund Site this week, four companies were filing a petition challenging the agency’s core cleanup plan.

In their petition, which was obtained by OPB, Evraz Inc., Gunderson LLC, Schnitzer Steel Industries and Vigor Industrial argue the EPA needs to update its cleanup requirements for the Portland Harbor site before they will agree to doing their part of the cleanup.

The EPA has already rejected a similar request from the companies to scale back its targets for how clean the river needs to be, and critics say the petition is just one of many examples of these companies trying to delay a cleanup process that has already stretched on far too long.

The four companies say new data show the site is much less contaminated than older test results showed and that the new data should be used to scale back the scope and overall cost of the cleanup. OPB has reached out to the four companies and the EPA. None had immediately responded.

The Portland Harbor Superfund Site covers nearly 11 miles of the Willamette River from the Broadway Bridge to the Columbia Slough. The area is highly contaminated with dozens of pollutants from more than a century of industrial use. The EPA has spent about 20 years working toward a Superfund cleanup involving more than a hundred parties that share responsibility for the contamination.

The agency's cleanup plans for the site were finalized in its 2017 record of decision. The next stage of the process involves individual parties designing their own cleanup plans for their portions of the site.

Many of the parties have now signed agreements with the EPA to start planning their own cleanups, which will likely involve dredging and removing the most contaminated soil from the bottom of the river and covering less contaminated areas with clean soil.

But the four companies petitioning the EPA are holding out because they say they don't want to design their cleanup plans around old data in the 2017 record of decision.

"The remedy selected in 2017 was based on very old data, most of which was collected in 2004," they stated in a March 9 letter to EPA Administrator Andrew Wheeler that accompanied their petition.

If that old data is used in the next phase of the cleanup, they wrote, "the designs will be based on outdated site data at great cost to the community and taxpayers."

Schnitzer Steel and Evraz were among the companies that volunteered to do additional sampling in the river in 2018 to provide new data on contamination at the site. They concluded that the river is much cleaner now than it was when the earlier pollution testing was done, likely because of early cleanup work, natural recovery and efforts to control new sources of pollution entering the river.

Their data shows contaminant concentrations in fish across the site are down 65% since the 2004 sampling and levels of toxic PCBs, or polychlorinated biphenyls, in sediment are down 52%.

In their petition they're asking the EPA to change its cleanup plan to reflect the new data, which they say would cut the scope of the required cleanup in half and cut down on billions of dollars of unnecessary dredging. They argue it would only take a few months to update the EPA's plan, and if the agency hadn't been resistant to the idea when they first proposed it last year it would be done by now.

"Moreover, any limited delay ... would be minimal compared to the delay in cleanup if the EPA chooses instead to pursue enforcement actions and to defend challenges to the [record of decision]," they wrote.

The letter, signed by attorneys for Schnitzer Steel and Evraz, hints at a legal fight to come, noting that if the EPA fails to update its cleanup plan, "it will be acting in an arbitrary and capricious manner."

In announcing cleanup agreements with other companies and public agencies this week, EPA officials said they plan to issue enforcement orders to parties that aren't negotiating with the agency in good faith.

The EPA did not immediately respond to a request for comment on the petition, but the agency has already denied a similar request from the same companies.

Last year, after submitting their new data to the EPA, Schnitzer Steel and Evraz along with the Marine Group and Arkema Inc., asked the agency to revise its cleanup plan to reflect their findings.

The agency denied that request, with officials saying they would use the data but didn't agree with the conclusions the companies reached about the need to change the record of decision. Officials suggested the companies could incorporate the new data into their designs for cleaning up their portions of the site.

Bob Sallinger, conservation director for Portland Audubon, accused the companies of trying to delay the cleanup process — by as long as 10 years in his estimate.

“It’s outrageous really,” he said. “They’ve left our community at risk literally for decades. It’s time for them to clean up their mess. It’s way past time.”

Sallinger noted that last year the companies met with Wheeler, the EPA administrator, raising questions about whether they’re trying to get the Trump administration to overrule the Northwest regional EPA officials who have been leading the work on the Portland Harbor cleanup plan thus far.

“We want to make sure the EPA doesn’t respond to this petition in a way that slows things down,” Sallinger said. “So far the EPA has taken a hard line and for the most part has been keeping this process on track.”